

LORRAINE CHARLIE,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	Docket No. IBIA 97-119-A
NAVAJO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	April 29, 1997

On April 17, 1997, the Assistant Secretary - Indian Affairs transmitted to the Board of Indian Appeals a notice of appeal which had been filed in her office. The notice of appeal was filed by Lorraine Charlie, who stated that she sought review of a March 10, 1997, decision of the Navajo Area Director, Bureau of Indian Affairs, concerning the approval of a business lease between the Navajo Nation and Jay W. Lee, d.b.a. Colonial Heights Funeral Home.

Appellant received the Area Director's decision on March 12, 1997, as shown by the receipt for certified mail for Appellant's copy of the decision. She did not file a copy of her notice of appeal with the Board.

The appeal is docketed under the above case name and number, which should be cited in all future correspondence or inquiries regarding the matter. The Board finds, however, that the circumstances of this case require that the appeal be dismissed.

The Area Director's decision stated:

If you do not agree with this action, you have the right to appeal this decision to the Interior Board of Indian Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203, in accordance with 43 CFR 4.310-4.340. Your notice of appeal to the Board must be signed by you or your attorney and must be mailed within 30 days of the date you receive this decision. * * * Copies of your notice of appeal must be sent to (1) the Assistant Secretary Indian Affairs, * * * (2) each interested party known to you, and (3) this office. Your notice of appeal sent to the Board of Indian Appeals must certify that you have sent copies to these parties.

* * * If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

Appellant has failed to file a timely notice of appeal. The Area Director's decision clearly informed her that her notice of appeal was to be filed with the Board and provided the Board's address. Appellant did not follow the Area Director's instructions but, instead, filed her notice of appeal with the Assistant Secretary - Indian Affairs. The Board has consistently held that a notice of appeal is not timely when the appellant has been given the correct appeal information but files his/her notice of appeal with an official other than the Board, resulting in receipt of the notice of appeal by the Board outside the time period specified in the regulations. E.g., Adams v. Portland Area Director, 30 IBIA 126 (1996); Simon v. Sacramento Area Director, 29 IBIA 59 (1996).

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is dismissed as not being timely filed.

Anita Vogt
Administrative Judge

Kathryn A. Lynn
Chief Administrative Judge